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ADOPTED

MEMORANDUM

DECEMBER 14, 1989

TO: BOSTON REDEVELOPMENT AUTHORITY AND
STEPHEN COYLE, DIRECTOR

FROM: THOMAS O'MALLEY, ACTING ASSISTANT DIRECTOR FOR
NEIGHBORHOOD HOUSING AND DEVELOPMENT, AND
ROBERT MCGILVRAY, CHIEF OF REHABILITATION

SUBJECT: SOUTH END RENEWAL AREA, PROJECT NO. MASS R-56 REQUEST
AUTHORIZATION TO EXECUTE A PRESERVATION AGREEMENT AND
AMEND THE LEASE FOR THE BOSTON CENTER FOR THE ARTS
(BCA) TO ASSIST THE BCA WITH ITS ONGOING CAPITAL
IMPROVEMENT CAMPAIGN ON PARCELS 9A AND 9C

SUMMARY: THIS MEMORANDUM REQUESTS AUTHORIZATION FOR THE DIRECTOR
TO: (1) EXECUTE AN AGREEMENT WITH THE MASSACHUSETTS
HISTORIC COMMISSION FOR PRESERVATION OF THE CYCLORAMA
BUILDING FACADE; AND (2) AMEND THE CURRENT LEASE
EXECUTED WITH THE BCA FOR ITS SOUTH END HEADQUARTERS TO
ALLOW SHAWMUT BANK OF BOSTON TO BE NAMED ON THE LEASE
AS SECURITY FOR A NEGOTIATED LOAN TO THE BOSTON CENTER
FOR THE ARTS. THESE ACTIONS ARE BEING TAKEN TO ASSIST
THE BCA IN ITS EFFORTS TO UPGRADE THE CONDITION OF THE
BRA-OWNED BUILDINGS THE BCA CURRENTLY OCCUPIES UNDER
THE TERMS AND CONDITIONS OF A 40-YEAR RENEWABLE LEASE
EXECUTED WITH THE BRA IN 1973.

1. Introduction

The Boston Center for the Arts (BCA) is dedicated to providing opportunities for local visual artists to conceive, create and display their work and to providing opportunities for local residents to see and learn about contemporary art. The BCA's mission includes encouraging the creation of new art, promoting the sale and commissioning of art, showcasing contemporary regional artists and contributing to the cultural enrichment of the Boston area.

The BCA is based in a group of four buildings and Parcel 8 in Boston's South End, including the historic Cyclorama building located at 537-541 Tremont Street. During its 18-year history, the BCA has continually upgraded its physical plant, but the age and deteriorated condition of the buildings make that a difficult and ongoing process. Care of the presently-occupied buildings has been identified as the BCA's first priority. Long-term goals include complete rehabilitation of the Cyclorama and the Tremont

Estates buildings as well as constructing approximately 100 new offices and studios and a parking facility on a currently undeveloped site.

This memorandum proposes a contribution by the BRA in support of the BCA's effort to rehabilitate and improve its leased property -- property still owned by the BRA. The proposal asks the BRA to:

- 1) Execute a preservation agreement requested by the Massachusetts Historic Commission as a condition of a provided grant for facade restoration of the Cyclorama building; and
- 2) Allow Shawmut Bank to be listed on the existing BCA lease as a condition for a loan to the BCA by the Shawmut Bank.

2. Cyclorama Facade Preservation Agreement

In May of 1989 the Boston Center for the Arts (BCA) applied for a Matching Grant from the Massachusetts Historical Commission (MHC) to restore the facade of the Cyclorama Building, (CA 1884) located at 539 Tremont Street in the South End.

The Cyclorama is part of the Boston Center for the Arts complex in the South End. The Cyclorama is located on Parcel 9A (537-541 Tremont Street), and is owned by the Boston Redevelopment Authority (BRA) and leased to the non-profit Boston Center for the Arts under the terms and conditions of an 80-year lease executed in 1973.

The Cyclorama is a red-brick building built in 1884 to house a huge circular painting of the Battle of Gettysburg. Because the Cyclorama is the only remaining building of its type in the country, its preservation is a primary goal of the Boston Center for the Arts. Money was recently secured from the Massachusetts Historic Commission (matched with other funds) to restore the building's facade, and additional funds are being sought for other capital improvements. Renovation is an ongoing effort which the Boston Center for the Arts funds in part through renting the building to outside groups for special events. The Cyclorama is host to a wide array of civic, charitable, and cultural activities.

The MHC grant requires that the recipient agree to a preservation easement in perpetuity as a condition to a receipt of \$39,000 grant for exterior facade work.

As the Cyclorama Building is already on the National Register of Historic Places and a Boston Landmark, the proposed preservation easement provides additional protection for this historic building without any real additional burdens.

3. Amendment to BCA Lease

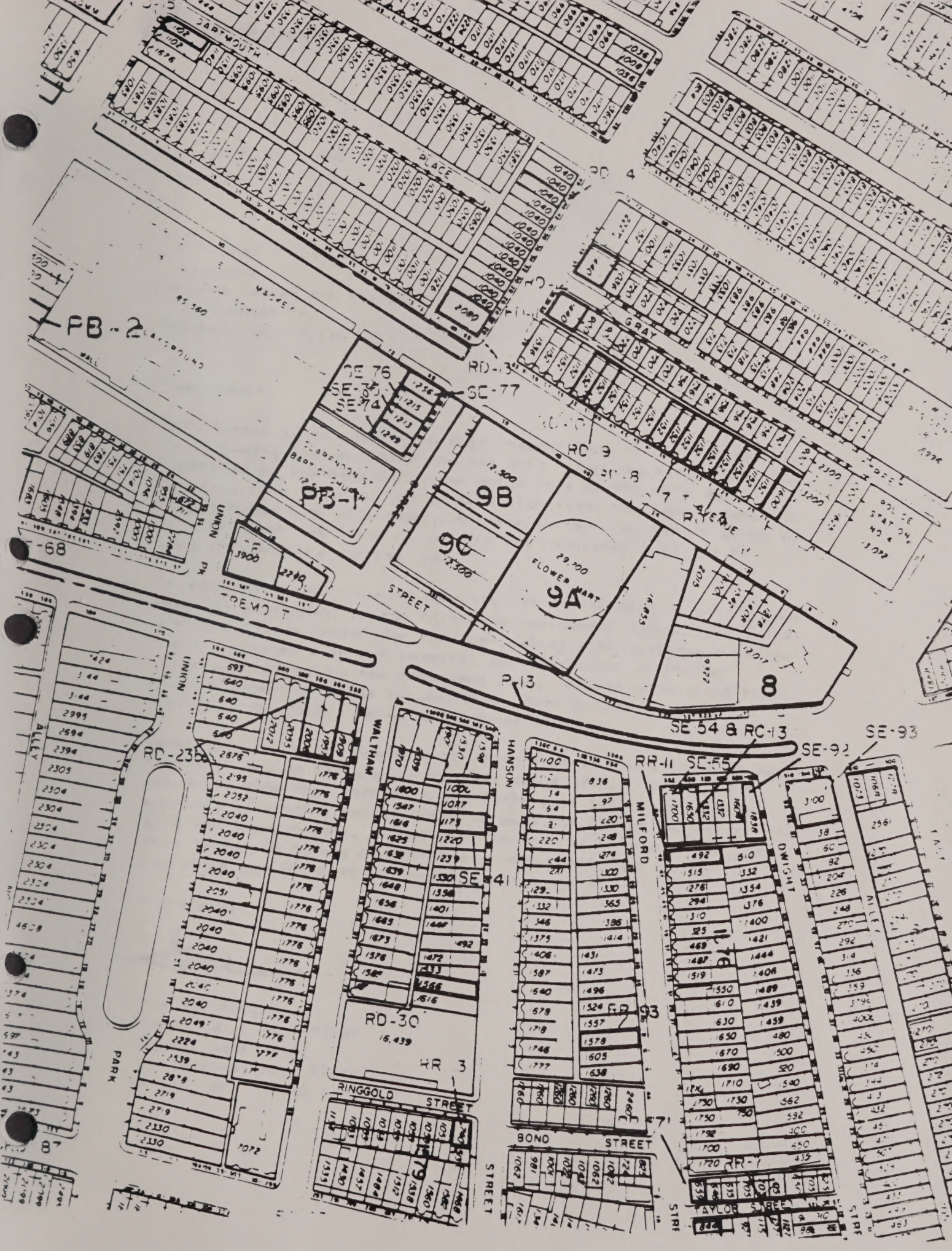
To complete a series of additional capital improvements to the buildings leased by the BCA, the BCA has negotiated a loan with the Shawmut Bank of Boston. Shawmut Bank has asked that the BRA execute a Non-Disturbance and Attornment Agreement, the effect of which will be to add the Shawmut Bank of Boston to the lease executed with the BRA.

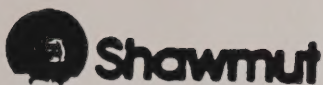
Appropriate votes follow:

VOTED: That the Director be and hereby is authorized on behalf of the BRA to execute a Preservation Restriction Agreement substantially in the form as attached, with the Massachusetts Historical Commission for the of the Cyclorama Building at 539 Tremont Street in the South End Urban Renewal Area, said agreement to include such additional terms as the Director deems appropriate and in the best interest of the Authority;

AND

VOTED: That the Director be and hereby is authorized on behalf of the BRA to execute appropriate agreements, instruments, and documents in connection with the Shawmut Bank loan, including but not limited to a Non Disturbance and Attornment agreement if required.





November 29, 1989

Mr. Janet T. Langsam
resident
Boston Center for the Arts
634 Tremont St.
Boston, MA 02116

Dear Janet:

This letter is to advise you that Shawmut Bank, N.A. is interested in reviewing Boston Center for the Arts' loan request of \$350,000, submitted to the Bank under the guidelines of the MBTA Small Business Loan Program. As we have discussed, the Bank's decision to grant the loan will depend on several factors, two of which are 1) sufficient cash flow to service the requested loan and 2) adequate security for the loan.

In addressing the issue of security, it is the opinion of the Bank that the assignment of the Boston Redevelopment Authority's lease with the Boston Center for the Arts, along with assignment of the Arts' leases with its tenants, should provide sufficient collateral to secure the requested loan. Please understand that the assignment of these leases to the Bank would be a critical factor in the Bank's decision to grant the loan.

Janet, please do not hesitate to contact me if there is anything further I may do for you during this stage of our review. I sincerely hope that both of our efforts will lead to a long and mutually beneficial relationship between the Boston Center for the Arts and Shawmut Bank. Finally, I would like to advise you that this letter in no way constitutes a commitment, but rather expresses our interest in pursuing your request.

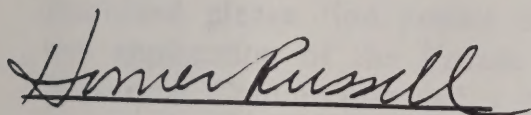
Sincerely,

Anne S. Granger
Commercial Loan Officer
Shawmut Bank, N.A.
One International Place
Boston, MA 02110

MEMORANDUM

TO: BOB MC GILVRAY, NHD-REHAB
FROM: HOMER RUSSELL, URBAN DESIGN
DATE: NOVEMBER 2, 1989
SUBJECT: FACADE RESTORATION / CYCLORAMA BUILDING

I have reviewed and approved the Facade Restoration Work for the Cyclorama Building at the Boston Center for the Arts, as prepared by Arrowstreet, Inc. and approved for funding by the Massachusetts Historical Commission.



Homer Russell

BCA.CYL



BOSTON CENTER for the ARTS

539 TREMONT ST • BOSTON • MA • 02116 • 426-5000

October 16, 1989

Mr. Robert McGilvray
Boston Redevelopment Authority
City Hall
Boston, Massachusetts

Dear Bob:

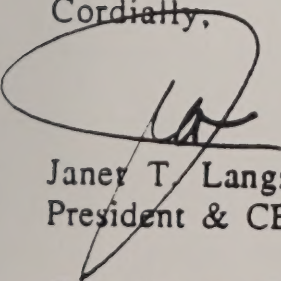
Enclosed please find copies of correspondence to the BRA regarding the application of the Boston Center for the Arts to the Massachusetts Historical Commission and a copy of the application. You will note in the application, there is a copy of the 40-year restriction which was placed on the Cyclorama in a prior grant period.

Since there appears to be some confusion, I should tell you for the record that this request from the Mass. Commission for a restriction in perpetuity appears to be a new regulation and pertains only to the Cyclorama.

I have spoken with Elsa Fitzgerald of the Commission who has agreed to allow me to submit the reimbursement forms for their preliminary review in anticipation of the BRA Board meeting of November 9th at which time the matter may be resolved.

Thanks as always for your assistance.

Cordially,



Janet T. Langsam
President & CEO

CC: Vincent P. Mc Carthy
Terrance Finn



RECEIVED

October 2, 1989

OCT 1 1989

Mr. Bob McGilvray
Boston Redevelopment Authority
Boston City Hall, Room 900
Boston, MA 02201

Dear Mr. McGilvray:

As requested, enclosed please find the specifications for work to be done on the facade of the Cyclorama Building through the Massachusetts Historical Commission's Massachusetts Preservation Projects Fund. If you have any questions or concerns regarding the work funded by MHC, please feel free to contact Paul Holtz, Staff Historical Architect, at this office.

Sincerely,

Elsa Fitzgerald
Elsa N. Fitzgerald
Assistant Director, MHC

Massachusetts Historical Commission, Valerie A. Talmage, Executive Director, State Historic Preservation Officer
80 Boylston Street, Boston, Massachusetts 02116 (617) 727-8470

Office of the Secretary of State, Michael J. Connolly, Secretary

PRESERVATION RESTRICTION AGREEMENT
between the COMMONWEALTH OF MASSACHUSETTS
by and through the MASSACHUSETTS HISTORICAL COMMISSION and
THE BOSTON CENTER FOR THE ARTS

The parties to this Agreement are the Commonwealth of Massachusetts, by and through the Massachusetts Historical Commission located at 80 Boylston Street, Boston, Massachusetts, (hereinafter referred to as the "Commission"), The Boston Center for the Arts (Cyclorama Building) located at 539 Tremont Street, Boston, MA 02116 (hereinafter referred to as the "Grantor"), and the Boston Redevelopment Authority located at 33 Third Avenue, Billings Building, Charlestown, MA 02129 (hereinafter referred to as the "BRA").

WHEREAS, The Boston Redevelopment Authority is the owner and fee simple of certain real estate with improvements thereon known as the Cyclorama Building and described in a deed dated _____ from _____ to The Boston Redevelopment Authority recording with the Suffolk County Registry of Deeds at Book _____, Page _____, and which property is leased to the Grantor for a term expiring August 9, 2013, subject to Grantor's right to extend such lease an additional 40 years, which property is hereinafter referred to as the Premises.

WHEREAS, the Grantor wishes to impose certain restrictions, obligations and duties upon it as the owner of the Premises and on the successors to its right, title and interest therein,

with respect to maintenance, protection, and preservation of the Premises in order to protect the architectural, archaeological and historical integrity thereof; and

WHEREAS, the preservation of the Premises is important to the public for the enjoyment and appreciation of its architectural, archaeological and historical heritage and will serve the public interest in a manner consistent with the purposes of M.G.L. chapter 184, section 32, hereinafter referred to as the Act; and

WHEREAS, the Commission is a government body organized under the laws of the Commonwealth of Massachusetts and is authorized to accept these preservation restrictions under the Act;

NOW, THEREFORE, for good and valuable consideration, the Grantor conveys to the Commission the following preservation restrictions which shall apply to the Premises, and upon execution by The Boston Redevelopment Authority, shall apply in perpetuity to the Premises.

These preservation restrictions are set forth so as to ensure the preservation of those characteristics which contribute to the architectural, archaeological and historical integrity of the Premises which have been listed on the National and State Registers of Historic Places, under applicable state and federal legislation. Characteristics which contribute to the architectural, archaeological and historical integrity of the Premises include, but are not

limited to, the artifacts, features, materials, appearance, and workmanship of the Premises, including those characteristics which originally qualified the Premises for listing in the National and State Registers of Historic Places.

The terms of the Preservation Restriction are as follows:

1. Maintenance of Premises: The Grantor agrees to assume the total cost of continued maintenance, repair and administration of the Premises and shall use its best efforts to preserve the characteristics which contribute to the architectural, archaeological and historical integrity of the Premises in a manner satisfactory to the Commission. The current funds available to Grantor may be insufficient to perform such maintenance, however the Grantor may seek and shall use its best effort to obtain financial assistance from any source available to it. The Commission does not assume any obligation for maintaining, repairing or administering the Premises.

→ 2. Inspection: The Grantor agrees that the Commission may inspect the Premises from time to time upon reasonable notice to determine whether the Grantor is in compliance with the terms of this Agreement.

3. Alterations: The Grantor agrees that no alterations shall be made to the exterior of the Premises and the portion of the interior of the Premises known as the Cyclorama unless (a) clearly of minor nature and not affecting the characteristics which contribute to the

architectural, archaeological or historical integrity of the Premises, or (b) the Commission has previously determined that it will not impair such characteristics after reviewing plans and specifications submitted by the Grantor, or (c) required by casualty or other emergency promptly reported to the Commission. Ordinary maintenance and repair of the Premises may be made without the written permission of the Commission. For purposes of this section, what constitutes alterations of a minor nature and ordinary maintenance and repair is more fully discussed in the Restriction Guidelines which are attached to this Agreement.

4. Assignment: The Commission may assign this Agreement to another governmental body or to any charitable corporation or trust among the purposes of which is the maintenance and preservation of historic properties.

5. Validity and Severability. The invalidity of M.G.L. c. 184 or any part thereof shall not affect the validity and enforceability of this Agreement according to its terms. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement.

6. Recording. The Grantor agrees to record this Agreement with the appropriate Registry of Deeds and file a copy of such recorded instrument with the Commission.

7. Other Provisions.

(a) From time to time after written request from the Grantor, the Commission will provide a written statement as to the Grantor's compliance with the terms of this Agreement or its non-compliance, and if so, specifying instances of non-compliance.

(b) In the event Grantor submits a written request for approval of any work at the Premises which requires the approval of the Commission, together with the plans and specifications for such work, such approval shall be deemed granted by the Commission unless denied in writing within thirty (30) days after receipt of such request by the Commission.

8. The BRA hereby assents to the imposition of the above described restrictions but assumes no financial responsibility for the maintenance, repair or administration of the said Premises on behalf of the grantor, during the term of the lease.

The burden of these preservation restrictions enumerated in paragraphs 1 through 7, inclusive, shall run with the land and be binding upon future owners of an interest therein.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this _____ day of September, 1989.

THE BOSTON CENTER FOR THE ARTS

By _____

BOSTON REDEVELOPMENT AUTHORITY

By _____

COMMONWEALTH OF MASSACHUSETTS

, ss.

, 1989

Then personally appeared the
 above-named _____ the _____ of
 The Boston Center for the Arts and acknowledged the foregoing
 instrument to be the free act and deed of The Boston Center for
 the Arts, before me,

 Notary Public
 My Commission Expires:

COMMONWEALTH OF MASSACHUSETTS

, ss.

, 1989

Then personally appeared the
 above-named _____ the _____ of
 the Boston Redevelopment Authority and acknowledged the
 foregoing instrument to be the free act and deed of the Boston
 Redevelopment Authority, before me,

 Notary Public
 My Commission Expires:

APPROVAL BY THE MASSACHUSETTS HISTORICAL COMMISSION

The undersigned hereby certifies that the foregoing preservation restrictions have been approved pursuant to Massachusetts General Laws, Chapter 184, section 32.

MASSACHUSETTS HISTORICAL COMMISSION

By _____
Valarie A. Talmage
Executive Director
Massachusetts Historical Commission

COMMONWEALTH OF MASSACHUSETTS

Suffolk, ss.

, 1989

Then personally appeared the above-named Valarie A. Talmage the Executive Director of the Massachusetts Historical Commission and acknowledged the foregoing instrument to be the free act and deed of the Massachusetts Historical Commission, before me,

Notary Public
My Commission Expires:

RESTRICTION GUIDELINES

The purpose of the Restriction Guidelines is to clarify paragraph three of the terms of the preservation restriction which deals with alterations to the premises. Under this section permission from the Massachusetts Historical Commission is required for any alterations which are not of a minor nature, part of ordinary maintenance and repair, or which involves structural stabilization.

In an effort to explain what constitutes a minor alteration and what types of changes should be reviewed by the MHC, the following list has been developed. By no means is this list comprehensive - it is only a sampling of some of the more common alterations which may be contemplated by building owners.

PAINT

Minor - Exterior or interior hand scraping and repainting of non-decorative and non-significant surfaces as part of periodic maintenance.

Major - Painting or fully stripping decorative surfaces or distinctive stylistic features including murals, stencilling, wallpaper, ornamented woodwork, stone, decorative or significant original plaster.

WINDOWS AND DOORS

Minor - Regular maintenance including caulking, painting and necessary reglazing. Repair or in-kind replacement of existing individual decayed window parts.

Major - Wholesale replacement of units; change in fenestration or materials; alteration of profile or setback of windows. The addition of storm windows is also considered a major change, however, with notification it is commonly acceptable.

EXTERIOR

Minor - Spot repair of existing cladding and roofing including in-kind replacement of clapboards, shingles, slates, etc.

Major - Large scale repair or replacement of cladding or roofing. Change involving inappropriate removal or addition of materials or building elements (i.e. removal of chimneys or cornice detailing; installation of architectural detail which does not have a historical basis); altering or demolishing building additions; spot repointing masonry.

February 28, 1986

LANDSCAPE/OUTBUILDINGS

Minor - Routine maintenance of outbuildings and landscape including mowing, pruning, planting, painting, and repair.

Major - Moving or subdividing buildings or property; altering of property; altering or removing significant landscape features such as gardens, vistas, walks, plantings; ground disturbance affecting archaeological resources.

WALLS/PARTITIONS

Minor - Making fully reversible changes (i.e. sealing off doors in leaving doors and door openings fully exposed) to the spatial arrangement of a non-significant portion of the building.

Major - Creating new openings in walls or permanently sealing off existing openings; adding permanent partitions which obscure significant original room arrangement; demolishing existing walls; removing or altering stylistic features; altering primary staircases.

HEATING/AIR CONDITIONING/ELECTRICAL/PLUMBING SYSTEMS

Minor - Repair of existing systems.

Major - Installing or upgrading systems which will result in major appearance changes (i.e. dropped ceilings, disfigured walls or floor exposed wiring, ducts, and piping); the removal of substantial quantities of original plaster or other materials in the course of construction.

Changes classified as major alterations are not necessarily unacceptable. Under the preservation restriction such changes must be reviewed by the MHC and their impact on the historic integrity of the premise assessed.

It is the responsibility of the property owner to notify the MHC in writing when any reviewable alterations are contemplated. Substantial alterations necessitate review of plans and specifications.

The intent of the preservation restriction is to enable the Commission to review proposed alterations and assess their impact on the integrity of the structure, not to preclude future change. MHC staff will attempt to work with property owners to develop mutually satisfactory solutions which are in the best interests of the property.

February 28, 1986

